

Draft Decision

Energex Electricity

Distribution Determination

2025 to 2030

(1 July 2025 to 30 June 2030)

Attachment 7

Corporate income tax

September 2024

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7 Corporate income tax

Our determination of the annual revenue requirement includes the estimated cost of corporate income tax for Energex’s 2025–30 regulatory control period (period).¹ Under the post-tax framework, the cost of corporate income tax is calculated as part of the building block assessment using our post-tax revenue model (PTRM). This amount allows Energex to recover the costs associated with the estimated corporate income tax payable during the 2025–30 period.

This attachment presents our assessment of Energex’s proposed corporate income tax amount for the 2025–30 period. It also presents our assessment of its proposed opening tax asset base (TAB), and the proposed standard tax asset lives used to estimate tax depreciation for the purpose of calculating tax expenses.

7.1 Draft decision

We determine an estimated cost of corporate income tax amount of \$143.4 million (\$ nominal) for Energex over the 2025–30 period. This amount is \$32.7 million (29.5%) higher than Energex’s proposed cost of corporate income tax amount of \$110.8 million. This increase is mainly due to our draft decision on a lower tax depreciation amount, which is calculated in our PTRM.²

This increase is partially offset by our draft decision on a lower regulatory depreciation amount (Attachment 4).³

Table 7.1 sets out our draft decision on the estimated cost of corporate income tax for Energex over the 2025–30 period.

Table 7.1 AER’s draft decision on Energex’s cost of corporate income tax for the 2025–30 period (\$ million, nominal)

	2025–26	2026–27	2027–28	2028–29	2029–30	Total
Tax payable	46.0	52.0	62.1	83.8	89.7	333.6
Less: value of imputation credits	26.2	29.6	35.4	47.7	51.1	190.1
Net cost of corporate income tax	19.8	22.4	26.7	36.0	38.6	143.4

Source: AER analysis.

For our draft decision on Energex’s estimated cost of corporate income tax:

¹ NER, cl. 6.4.3(a)(4).

² The lower tax depreciation is driven by the changes we made to Energex’s opening tax asset base and forecast capex in this draft decision. All else being equal, a lower tax depreciation increases the cost of corporate income tax as it is a component of tax expense.

³ The lower regulatory depreciation is driven by a lower straight-line depreciation in our draft decision compared to Energex’s proposal. All else being equal, a lower regulatory depreciation decreases the cost of corporate income tax as it is a component of revenue for tax purposes.

- We determine an opening TAB value of \$8,505.7 million (\$ nominal) as at 1 July 2025 for Energex. This is \$124.0 million lower than Energex’s proposed opening TAB value of \$8,629.7 million as at 1 July 2025.⁴ This is mainly due to our draft decision roll forward model (RFM) input amendments for capital expenditure (capex), capital contributions and asset disposals (section 7.4.1).
- We accept Energex’s proposed approach for immediate expensing of capitalised overheads, as it is generally consistent with its 2020–25 distribution determination and the actual immediately expensed capex reported in the annual regulatory information notices (RINs) for the period 2020–21 to 2022–23. However, we update Energex’s proposed forecast immediately expensed capex for the 2025–30 period to reflect our draft decision on the total forecast capex (section 7.4.2).
- We accept Energex’s proposed forecast capex associated with buildings and in-house software for the 2025–30 period will be exempted from the diminishing value tax depreciation method. This maintains the approach approved in the 2020–25 determination of applying the straight-line tax depreciation method for these assets (section 7.4.3).
- We accept Energex’s proposed change to using the year-by-year depreciation tracking method as set out in our depreciation module in the RFM to calculate the forecast tax depreciation of its existing assets (section 7.4.3).
- We accept Energex’s proposed standard tax asset lives for its existing asset classes for the 2025–30 period, with the exception of the ‘In-house software’ asset class. The proposed standard tax asset lives are broadly consistent with the tax asset lives prescribed by the Commissioner of Taxation in Australian Taxation Office (ATO) Taxation Ruling 2022/1 and/or are the same as the approved standard tax asset lives for the 2020–25 period. However, for the ‘In-house software’ asset class we have amended Energex’s proposed standard tax asset life to be consistent with the *Income Tax Assessment Act 1997* (section 7.4.4).⁵
- We accept Energex’s proposed new asset classes of ‘Initial leases’ and ‘Lease extensions’ as well as the associated standard tax asset lives of 10 years and 5 years respectively (section 7.4.4).

Our adjustments to the return on capital (Attachments 2, 3 and 5) and the regulatory depreciation (Attachment 4) building blocks affect revenues, which in turn impact the calculation of the cost of corporate income tax for this draft decision. The changes affecting revenues are discussed in Attachment 1.

⁴ Energex, *8.03–SCS–Post-tax revenue model*, February 2024.

⁵ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2022)*, June 2022.

7.2 Energex's proposal

Energex proposed an estimated cost of corporate income tax of \$110.8 million (\$ nominal) for the 2025–30 period using our PTRM,⁶ and with the following inputs:⁷

- an opening TAB value as at 1 July 2025 of \$8,610.3 million (\$ nominal)
- an expected statutory income tax rate of 30% per year
- a value of imputation credits (gamma) of 0.57
- forecast immediately expensed capex amount of \$837.2 million (\$2024–25)
- tax depreciation of the opening TAB as at 1 July 2025 for each asset class applying the year-by-year tracking approach calculated in the depreciation module of the RFM
- the same standard tax asset lives for tax depreciation purposes of new capex for its existing asset classes in the 2025–30 period as approved for the 2020–25 distribution determination
- two new asset classes for capitalised leases, and the associated standard tax asset lives of 10 years and 5 years for 'Initial leases' and 'Lease extensions', respectively.

Table 7.2 sets out Energex's proposed estimated cost of corporate income tax over the 2025–30 period.

Table 7.2 Energex's proposed cost of corporate income tax for the 2025–30 period (\$ million, nominal)

	2025–26	2026–27	2027–28	2028–29	2029–30	Total
Tax payable	35.7	38.8	47.4	66.3	69.3	257.6
Less: value of imputation credits	20.4	22.1	27.0	37.8	39.5	146.8
Net cost of corporate income tax	15.4	16.7	20.4	28.5	29.8	110.8

Source: Energex, *8.03–SCS–Post-tax revenue model*, February 2024.

7.3 Assessment approach

We make an estimate of taxable income for each regulatory year as part of our determination of the annual revenue requirement for Energex's 2025–30 period.⁸ Our estimate is the taxable income that a benchmark efficient entity would earn for providing standard control

⁶ Our published electricity PTRM uses the diminishing value tax depreciation approach for all new assets with the exception of in-house software, buildings (capital works) and equity raising costs. All assets acquired prior to 1 July 2020 will continue to be depreciated using the straight-line depreciation method for regulatory tax purposes, until these assets are fully depreciated. The PTRM also allows for the immediate expensing of certain capex for tax purposes.

⁷ Energex, *8.03–SCS–Post-tax revenue model*, February 2024.

⁸ Clause 6.5.3 of the NER sets out the formula we must use to estimate corporate income tax.

services if it operated Energex’s business, which is determined in accordance with the PTRM.

7.3.1 Calculating estimated cost of corporate income tax in the PTRM

Our approach for calculating a distributor’s estimated cost of corporate income tax is set out in our PTRM⁹ and involves the following steps:¹⁰

1. We estimate the annual assessable income (taxable revenue) that would be earned by a benchmark efficient entity operating the distributor’s business. This is the approved forecast revenues for the distributor that we determined using the building block approach.¹¹ It includes capital contributions where these are subject to taxation.
2. We then estimate the benchmark tax expenses such as operating expenditure (opex), interest expense and tax depreciation in the following ways:
 - operating expense is set equal to the opex building block¹²
 - interest expense is a function of the size of the regulatory asset base (RAB), the benchmark gearing assumption (60%) and the regulated cost of debt
 - tax depreciation expense is calculated using a separate value for the TAB, and standard and/or remaining tax asset lives for taxation purposes. Previously, the PTRM applied the straight-line method for calculating tax depreciation for all assets. Consistent with the findings of the 2018 tax review,¹³ the PTRM (version 5) applies the straight-line tax depreciation method for existing assets and the diminishing value tax depreciation method¹⁴ for all assets acquired after 30 June 2020 except for in-house software, buildings (capital works) and equity raising costs. The expenditure for these assets is to be depreciated using the straight-line method under the tax law. The PTRM also accounts for the value of certain forecast capex to be immediately expensed when estimating the benchmark tax expense. The value of immediately expensed capex is deducted from the net capex being depreciated for tax purposes for the year in which it is forecast to be incurred.¹⁵ The immediately expensed amount is then included in the total tax depreciation amount for the relevant year.

⁹ AER, *Electricity distribution network service providers: Post-tax revenue model (version 5)*, April 2021.

¹⁰ The PTRM must specify the manner in which the estimated cost of corporate income tax is to be calculated: NER, cl. 6.4.2(b)(4).

¹¹ The total revenue for tax purposes is the sum of the building blocks including return on capital, return of capital, operating expenditure and cost of corporate taxation, and any capital contributions. It may also include other revenue adjustments, but the assessment of whether they should give rise to a tax payable will occur on a case-by-case basis.

¹² Our assessment approach for the opex building block is discussed in Attachment 6 of the draft decision.

¹³ AER, *Final report, Review of regulatory tax approach*, December 2018.

¹⁴ For more explanation of how we calculate depreciation using the diminishing value method, please see: AER, *Distribution PTRM handbook*, April 2021, pp. 22–23.

¹⁵ That is, the net capex to be added to the TAB for tax depreciation purposes is the amount of gross capex, less disposals, less the immediately deductible capex.

There may be other revenue adjustments, but the assessment of whether they should give rise to a tax payable occurs on a case-by-case basis.

3. We estimate the annual taxable income that would be earned by a benchmark efficient entity operating the distributor's business by subtracting the benchmark estimates of tax expenses (step 2) from the approved forecast revenues for the distributor (step 1).
4. We apply the statutory income tax rate to the estimated annual taxable income (after adjustment for any tax loss carried forward) to arrive at a notional amount of tax payable.
5. We deduct the expected value for the utilisation of imputation credits (gamma) by investors from the notional amount of tax payable. The tax payable net of the expected value of imputation credits represents the estimated cost of corporate income tax and is included as a separate building block in determining the distributor's annual revenue requirement.

7.3.2 Assessing the tax inputs to the PTRM

The estimated cost of corporate income tax is an output of the PTRM. We therefore assess the distributor's proposed cost of corporate income tax by analysing the proposed inputs to the PTRM for calculating that cost. Our assessment approach for each of the tax inputs required in the PTRM are discussed in turn below:

- **The opening TAB value as at the commencement of the 2025–30 period:** We consider that the roll forward of the opening TAB should be based on the approved opening TAB as at 1 July 2020 and Energex's actual/estimated capex incurred during the 2020–25 period, and the actual capex incurred in the final year (2019–20) of the previous regulatory control period.¹⁶ The roll forward of the opening TAB for the 2020–25 period is calculated in our RFM, which relies on the depreciation module.

The opening TAB value at 1 July 2025 is used to estimate forecast tax depreciation for the 2025–30 period, including new assets to be added to the TAB over this period. Consistent with the 2020–25 determination, we will continue to apply the straight-line method of tax depreciation for the opening TAB value as at 1 July 2020. However, for all assets added to the TAB after this date (with some exceptions discussed further below), we will apply the diminishing value method of tax depreciation.

- **The form of customer contributions:** On 21 October 2020, the Full Federal Court of Australia published a judgment dealing with the tax treatment of capital contributions.¹⁷ The determination:
 - Confirmed an earlier Court ruling that cash contributions were ordinary income and should be treated as assessable income for tax purposes.
 - Overturned an earlier Court ruling and determined that while a gifted asset was a 'non-cash business benefit' there was effectively nil income for tax purposes.

We consider the Court's ruling on gifted assets requires us to exclude the cost of construction of these assets from the gross capex and capital contributions inputs to the PTRM. Consequently, this excludes gifted assets from the calculation of the estimated

¹⁶ The tax depreciation is therefore recalculated based on actual capex. The same tax depreciation approach of using actual capex applies to the roll forward of the TAB at the next distribution determination.

¹⁷ Federal Court of Australia, *Victoria Power Networks Pty Ltd v Commissioner of Taxation* [2020] FCAFC 169, 21 October 2020.

cost of corporate income tax building block. Capital contributions in the form of cash continue to be included in the calculation of the estimated cost of corporate income tax building block.

- **The standard tax asset life for each asset class:** Our assessment of a distributor’s proposed standard tax asset life is generally guided by the effective life of depreciating assets determined by the Commissioner of Taxation. We consider that the standard tax asset lives for the majority of Energex’s asset classes should be consistent with the ATO Taxation Ruling 2022/1 regarding the effective life of depreciating assets where possible.¹⁸

As discussed above, the PTRM applies the diminishing value tax depreciation method for all new assets except for in-house software, buildings (capital works) and equity raising costs. It provides designated asset classes for these assets to be depreciated using the straight-line method for tax purposes.¹⁹ We note that the tax effective lives for in-house software, buildings (capital works) and equity raising costs are not covered under the ATO Taxation Ruling 2022/1. Therefore, our assessment of the standard tax asset lives for these asset classes are guided by the *Income Tax Assessment Act 1997* (ITAA). Specifically, we consider that the standard tax asset life should be:

- 40 years for buildings. This is consistent with the number of years required to completely depreciate capital works assets such as buildings for tax purposes when applying sections 43.15, 43.140 and 43.210 of the ITAA.
 - 5 years for in-house software. This is consistent with subsection 40.95(7) of the ITAA.
 - 5 years for equity raising costs. This is consistent with section 40.880 of the ITAA.²⁰
- **The income tax rate:** The statutory income tax rate is 30% per annum for businesses of the size we regulate, which was adopted in Energex’s proposal.
 - **The value of gamma:** The gamma input for Energex is 0.57 for this draft decision. This is consistent with the 2022 *Rate of Return Instrument*, which requires us to use a gamma value of 0.57,²¹ and adopted in Energex’s proposal.²² This is discussed further in Attachment 3.
 - **The size and treatment of any tax losses as at 1 July 2025:** Where a business has tax losses under our benchmark approach, we require the provision of this value to determine the appropriate estimated taxable income for a regulatory control period. If there is an amount of tax losses accumulated, the forecast taxable income for the regulatory control period will be reduced by this amount. Energex does not have any

¹⁸ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2022)*, June 2022.

¹⁹ Our assessment approach on new assets to be exempted from the diminishing value method is discussed in detail below.

²⁰ For completeness, we have applied this for our draft decision in the PTRM even though there are no equity raising costs triggered for Energex.

²¹ AER, *Rate of Return Instrument*, February 2023, p. 9.

²² Energex, *8.03–SCS AER PTRM*, February 2024.

accumulated tax losses as at the start of the 2025–30 period, which is consistent with our final determination for the 2020–25 period.²³

- **Forecast immediately expensed capex:** The PTRM requires a forecast for immediately deductible capex to be provided for each regulatory year of the 2025–30 period. Our assessment of forecast immediately expensed capex will be guided by the distributor's actual immediately expensed capex from the previous regulatory control period.²⁴ We will collect actual data relating to this expenditure in our annual reporting RINs to further inform our decision on the amount of forecast immediately expensed capex in future regulatory determinations. Benchmarking may also be considered going forward.²⁵
- **Diminishing value multiplier:** The PTRM applies the diminishing value method of tax depreciation and provides an input section for the 'diminishing value multiplier' to be recorded for each year of the regulatory control period. We note that currently the diminishing value multiplier is set at 200% by the ATO.
- **New assets to be exempted from the diminishing value method:** The PTRM applies the diminishing value method for tax depreciation purposes to all new depreciable assets except for certain assets. It provides for asset classes 47 to 50 to be depreciated using the straight-line method for tax purposes rather than the diminishing value method. These asset classes are to contain new assets associated with in-house software, buildings (capital works) and equity raising costs.

We consider that the benchmark equity raising costs should not be depreciated using the diminishing value method. We note that section 40.880 of the ITAA and the ATO's taxation ruling 2011/6²⁶ require that businesses claim deductions on equity raising costs in equal proportions over a five-year period. Therefore, in the PTRM, we apply the straight-line method for calculating the tax depreciation for equity raising costs, consistent with the ITAA and ATO's requirements.²⁷ Further, the distributor may propose capex associated with buildings and in-house software be exempted from the diminishing value method of tax depreciation in the PTRM if the proposal satisfies the following requirements:

- **Buildings:** We consider that capex for buildings may be exempted from the diminishing value method in the PTRM, consistent with sections 43.15, 43.140 and 43.210 of the ITAA. However, such capex must be consistent with the definition of a capital work under section 43.20 of the ITAA and in ATO taxation ruling 97/25.²⁸ We note that this includes new buildings and structural improvements to existing buildings.²⁹ However, capex on separate assets within a building such as air-

²³ AER, *Final Decision, Energex, Distribution Determination, 2020 to 2025, Attachment 7, Corporate income tax*, June 2020, p. 5. Positive tax amounts were forecast in that determination.

²⁴ In the tax review final report, we labelled our approach to determining the amount of capex that is to be immediately expensed as an 'actuals informed approach'. AER, *Final report, Review of regulatory tax approach*, December 2018, p. 66.

²⁵ AER, *Final report, Review of regulatory tax approach*, December 2018, pp. 66–67.

²⁶ ATO, *Taxation Ruling 2011/6*, July 2016.

²⁷ The benchmark cost for equity raising costs is determined within the PTRM.

²⁸ ATO, *Taxation Ruling 97/25*, July 2017.

²⁹ ITAA, section 43.20.

conditioning units, transformers and converters are not consistent with the definition of a capital work, and therefore are required to be depreciated using the diminishing value method in the PTRM.

- **In-house software:** We consider that capex for in-house software may be exempted from the diminishing value method in the PTRM, consistent with section 40.72 of the ITAA. However, such capex must be consistent with the definition of in-house software under section 995.1 of the ITAA and in ATO taxation ruling 2016/3.³⁰ We note that this includes computer software, or the right to use computer software that the distributor acquires, develops or has someone else develop for the distributor’s business use.³¹ However, capex associated with other IT assets such as computer hardware is not consistent with the definition of in-house software, and is therefore required to be depreciated using the diminishing value method in the PTRM.

We note Energex has proposed exemptions from the diminishing value method for forecast capex associated with buildings (capital works) and in-house software for the 2025–30 period. This is consistent with the approach applied in the 2020–25 determination.

7.3.3 Interrelationships

The cost of corporate tax income building block feeds directly into the annual revenue requirement. This amount is determined by five factors:

- pre-tax revenues
- tax expense (including tax depreciation)
- the corporate tax rate
- any tax losses carried forward
- gamma — the expected proportion of company tax that is returned to investors through the utilisation of imputation credits—which is offset against the corporate income tax payable.

Of these factors, the corporate tax rate is set externally by the Australian Government. The higher the tax rate, the higher the required tax payable.

The pre-tax revenues depend on all the building block components. Any factor that affects revenue will therefore affect pre-tax revenues. Higher pre-tax revenues can increase the tax

³⁰ ATO, *Taxation Ruling 2016/3*, October 2018.

³¹ ITAA, section 995.1.

payable.³² Depending on the source of the revenue increase, the tax increase may be equal to or less than proportional to the company tax rate.³³

The tax expenses (or deductions) depend on various building block components and their size. Some components give rise to tax expenses, such as opex, interest payments and tax depreciation of assets. However, others do not, such as increases in return on equity. Higher tax expenses offset revenues as deductions in the tax calculation and therefore reduce the cost of corporate income tax (all things being equal). Tax expenses include:

- Interest on debt – because interest is a tax offset. The size of this offset depends on the ratio of debt to equity and therefore the proportion of the RAB funded through debt. It also depends on the allowed return on debt and the size of the RAB.
- General expenses – these expenses generally will match the opex forecast including any revenue adjustments, but the assessment of whether they should be treated as a tax expense occurs on a case-by-case basis.
- Tax depreciation – a separate TAB is maintained for the distributor reflecting tax rules. This TAB is affected by many of the same factors as the RAB, such as capex, although unlike the RAB value it is maintained at its historical cost with no indexation. The TAB is also affected by the depreciation rate/method and asset lives assigned for tax depreciation purposes.

A business that has tax expenses which are greater than its taxable revenue in a period would not be subject to pay tax and instead will generate a tax loss. A tax loss can be carried forward to offset against tax payable in the future.

7.4 Reasons for draft decision

We determine the estimated cost of corporate income tax amount is \$143.4 million (\$ nominal) for Energex over the 2025–30 period. This represents an increase of \$32.7 million from Energex’s proposal of \$110.8 million. The following sections discuss the reasons for our draft decision on:

- the opening TAB value as at 1 July 2025
- the forecast immediately expensed capex
- assets to be exempted from the diminishing value method for tax depreciation
- the year-by-year tracking approach for tax depreciation
- the standard tax asset lives for depreciating forecast capex over the 2025–30 period.

³² In fact, there is an iterative relationship between tax and revenues. That is, revenues lead to tax, being applied, which increases revenues and leads to slightly more tax and so on. The PTRM is therefore set up to run an iterative process until the revenue and the cost of corporate income tax become stable.

³³ For example, although increased opex adds to revenue requirement, these expenses are also offset against the revenues as deductions in determining tax, so there is no net impact in this case. A higher return on equity, in contrast, gives rise to no offsetting tax expenses and therefore increases the tax payable in proportion to the company tax rate.

Our draft decision on Energex’s proposed return on capital (Attachments 2, 3 and 5) and the regulatory depreciation (Attachment 4) building blocks affect revenues, and therefore also impact the forecast corporate income tax amount.

7.4.1 Opening tax asset base as at 1 July 2025

We accept Energex’s proposed method to establish the opening TAB value as at 1 July 2025. This is because Energex’s proposed approach is based on our RFM and consistent with that previously approved for the 2020–25 period. Based on the proposed approach, we determine Energex’s opening TAB value as at 1 July 2025 to be \$8,505.7 million (\$ nominal). This represents a reduction of \$124.0 million compared to its proposal, based on our input amendments discussed below. As a result, our draft decision provides for a lower tax depreciation, which in turn increases the cost of corporate income tax using the PTRM.

For the reasons discussed in Attachment 2, we approve Energex’s approach to capitalising lease costs. Our draft decision rolls in a tax asset value of \$44.7 million (\$ nominal) as a final year asset adjustment, representing the present value of Energex’s existing leases as at 30 June 2025. We updated Energex’s proposed adjustment to reflect the updated weighted average cost of capital values used in the RFM. We also accept Energex’s proposed remaining tax asset life of 4.3 years for tax depreciation of this final year asset adjustment as we consider this appropriately reflects the expected remaining lease terms for Energex’s existing assets. The value of this tax adjustment and tax remaining life each reflect our decision on the RAB adjustment (Attachment 2) and RAB remaining life (Attachment 4). We are satisfied that this approach is consistent with the ATO’s guidance on determining the effective life of an asset.³⁴

We have reviewed the inputs to the TAB roll forward and found they were mostly correct and reconciled with relevant data sources such as annual reporting RINs and the 2020–25 decision models. However, we made the following updates to the RFM and depreciation tracking module inputs which impact the opening TAB value as at 1 July 2025:

- The 2020–23 capex amounts for the ‘IT systems’ and ‘In-house software’ asset classes to reflect the corrected CPI adjusted forecast capex for these asset classes:
 - Energex has overspent its approved forecast capex relating to its non-network ICT systems by \$107.1 million (\$ nominal) over 2020–23. However, it has decided to self-fund this overspent amount in recognition of affordability concerns raised by its customers. As such, Energex’s proposed TAB roll forward only included the forecast capex approved in the 2020–25 determination for the relevant asset classes.
 - We consider Energex’s proposed approach of excluding this capex overspend from the TAB roll forward to be acceptable. However, we have updated the roll-in amounts to \$90.4 million (\$ nominal) from the proposed \$95.0 million due to corrections we made to the CPI adjusted forecast capex amount as reported in Energex’s annual reporting RINs.³⁵

³⁴ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets*, June 2022, Appendix Explanation, cll. 47–50, p. 9; ITAA, section 40.105.

³⁵ Energex submitted it has no concerns with our approach. Energex, *Response to information request #008*, 23 April 2024, p. 1; Energex, *Response to AER information request #032*, 04 June 2024, p. 2.

- Capital contributions for 2020–23 to be consistent with the annual reporting RINs.³⁶
- Motor vehicles disposal amounts for 2023–25 to reflect the estimated gross proceeds from sale.³⁷
- Immediately expensed capex for 2022–23 to be consistent with the annual reporting RINs.³⁸

Some of these updates also affected the opening RAB roll forward and are discussed in more detail in Attachment 2. We note that the opening TAB value as at 1 July 2025 may be updated as part of the final decision to reflect actual 2023–24 capex and any revised 2024–25 capex estimates.

Table 7.3 sets out our draft decision on the roll forward of Energen’s TAB over the 2020–25 period.

Table 7.3 AER’s draft decision on Energen’s TAB roll forward for the 2020–25 period (\$ million, nominal)

	2020–21	2021–22	2022–23	2023–24 ^a	2024–25 ^a
Opening TAB	8,286.4	8,293.1	8,284.3	8,293.5	8,338.5
Capital expenditure ^b	411.5	421.4	486.5	546.1	656.4
Less: tax depreciation	404.7	430.3	477.3	501.2	533.8
Final year asset adjustment ^c					44.7
Closing TAB	8,293.1	8,284.3	8,293.5	8,338.5	8,505.7

Source: AER analysis.

- (a) Based on estimated capex. We expect to update the TAB roll forward with actual capex for 2023–24 and a revised capex estimate for 2024–25 in the final decision.
- (b) Net of disposals.
- (c) Capitalised leases as at 30 June 2025.

7.4.2 Forecast immediately expensed capex

Energen proposed \$837.2 million (\$2024–25) of forecast capex to be immediately expensed over the 2025–30 period.³⁹

We consider Energen’s approach to forecast its immediately expensed capex to be reasonable. Its proposed amount is informed by the forecast amount of capitalised overheads and reflects the type of actual capex immediately expensed historically by Energen.⁴⁰ This is consistent with the approach taken during the 2020–25 determination. We

³⁶ Energen submitted it has no concerns with our approach. Energen, *Response to AER information request #008*, 23 April 2024, p. 1.

³⁷ Energen submitted it has no concerns with our approach. Energen, *Response to follow-up on AER information request #020*, 28 May 2024.

³⁸ Energen submitted it has no concerns with our approach. Energen, *Response to AER information request #008*, 23 April 2024, p. 2.

³⁹ Energen, *8.03–SCS–Post-tax revenue model*, February 2024.

⁴⁰ Energen, *2025–30 Regulatory Proposal*, January 2024, p. 165.

note that the proposed forecast immediately expensed amount is about 24.3% of its total proposed forecast capex for the 2025–30 period. This is broadly consistent with the average proportion of capex being immediately expensed over the period 2020–21 to 2022–23 as reported in the annual RINs, which is about 21.6%.

As discussed in Attachment 5, however, we have made reductions to Energex’s proposed forecast capex. Our draft decision is to therefore reduce the proposed amount of forecast immediately expensed capex to reflect our draft decision on the overall forecast capex. This resulted in a lower forecast immediately expensed capex of \$689.7 million for the 2025–30 period, a reduction of \$147.5 million from the proposal.

We will continue to collect actual data relating to this expenditure in our annual reporting RINs to inform our decision on the amount of forecast immediately expensed capex in the next determination for Energex.

7.4.3 Assets exempt from the diminishing value method

The PTRM applies the diminishing value method as the regulatory benchmark for tax depreciation to all new capex. However, as discussed above, there are some exceptions to this approach under the tax law such as assets relating to in-house software, buildings (capital works) and equity raising costs.⁴¹ In the PTRM, the benchmark equity raising costs is determined within the model and depreciated using the straight-line tax depreciation method as default.

In addition to equity raising costs, Energex proposed forecast capex associated with buildings (capital works) and in-house software for the 2025–30 period to be exempted from the diminishing value tax depreciation method. We accept Energex’s proposal because the forecast capex satisfies the relevant definitions under the tax law.⁴² Therefore, these assets will be depreciated using the straight-line method for tax purposes, consistent with the approach applied in the 2020–25 determination.

7.4.4 Year-by-year tracking approach

We accept Energex’s proposed change to using the ‘year-by-year’ tracking method as set out in our depreciation module in the RFM for calculating the tax depreciation of its existing assets as at 1 July 2025.⁴³

The proposed method represents a change from the ‘weighted average remaining life’ (WARL) approach previously adopted in the 2020–25 determination.⁴⁴ This change is

⁴¹ Asset classes 47, 48, 49 and 50 in the PTRM provide for this.

⁴² ATO, *Taxation Ruling 2016/3*, October 2018; ATO, *Taxation Ruling 97/25*, July 2017; ITAA, section 995.1; ITAA, section 43.20.

⁴³ Under this approach, the capex for each year of a regulatory control period is depreciated individually for tax purposes. It will result in each tax asset class having an expanding list of sub-assets to reflect the regulatory year in which capital expenditures on those assets occurred.

⁴⁴ The weighted average remaining life method calculates the remaining tax asset life at the end of the regulatory control period by weighting together the remaining tax asset life at the start of that period with the capex incurred over that period.

required as a result of implementing the diminishing value tax depreciation method under the 2018 tax review at the 2020–25 determination.⁴⁵

Under the diminishing value method, the tax depreciation of the capex for each year of a regulatory control period must be calculated individually. This could not be achieved under the WARL approach previously applied by Energex. Therefore, Energex is required to switch to using the year-by-year tracking method to correctly calculate its tax depreciation of existing assets in the TAB as at 1 July 2025. Because of this change there will be no single set of remaining tax asset lives for each asset class at the start of the 2025–30 period.

For this draft decision, we have amended some of the depreciation module inputs to reflect those as set out in section 7.4.1 so that they are consistent with those made to the RFM. With these amendments, we are satisfied that the application of the year-by-year tracking method provides an appropriate estimate of the tax depreciation amount for a benchmark efficient service provider as required by the National Electricity Rules (NER).⁴⁶

7.4.5 Standard tax asset lives

We accept Energex’s proposed standard tax asset lives assigned to its existing asset classes, with the exception of the ‘In-house software’ asset class, because they are:

- broadly consistent with the tax asset lives prescribed by the Commissioner of Taxation in ATO Taxation Ruling 2022/1⁴⁷
- the same as the approved standard tax asset lives for the 2020–25 period.

Energex proposed a standard tax asset life of 3.8 years for the ‘In-house software’ asset class, which is consistent with the life approved in the 2020–25 distribution determination. We note that the tax law specifies that depreciating intangible assets such as in-house software should employ an effective life of 5 years. Therefore, our draft decision is to amend the proposed standard tax asset life for this asset class to 5 years to be consistent with the ITAA.⁴⁸ In its response to our information request, Energex noted it has no concerns with our approach.⁴⁹

In addition to the existing asset classes approved for the 2020–25 period, Energex proposed two new asset classes for capitalised leases due to a change in accounting standards (AASB 16), and assigned the same asset lives for tax depreciation and RAB depreciation:

- ‘Initial leases’ asset class with a proposed standard tax asset life of 10 years
- ‘Lease extensions’ asset class with a proposed standard tax asset life of 5 years.

⁴⁵ AER, *Explanatory statement, Electricity transmission and distribution network service providers, Proposed amendments to the roll forward models (Distribution – version 3) (Transmission – version 4)*, December 2019, pp. 17–20.

⁴⁶ Clause 6.5.3 of the NER sets out the formula we must use to estimate corporate income tax. It requires an estimate of the taxable income of a benchmark efficient entity.

⁴⁷ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets (applicable from 1 July 2022)*, June 2022.

⁴⁸ ITAA, section 40.95(7).

⁴⁹ Energex, *Response to AER information request #008*, 23 April 2024, p. 1.

For the reasons discussed in Attachment 4, our draft decision accepts the addition of the proposed new asset classes for leases. We also accept Energex’s proposed standard tax asset lives of 5 years and 10 years, which are consistent with the RAB standard life, because they reflect the expected duration of Energex’s future leases. Therefore, we consider these asset lives are appropriate for tax depreciation purposes as they reflect the expected economic lives of these asset classes. We are satisfied that this approach is consistent with the ATO’s guidance on determining the effective life of an asset.⁵⁰

Table 7.4 sets out our draft decision on Energex’s standard tax asset lives for each of its asset classes. We are satisfied that the standard tax asset lives are appropriate for application over the 2025–30 period. We are also satisfied that the standard tax asset lives provide an estimate of the tax depreciation amount that would be consistent with the tax expenses used to estimate the annual taxable income for a benchmark efficient service provider.⁵¹

Table 7.4 AER’s draft decision on Energex’s standard tax asset lives (years)

Asset class	Standard tax asset life
OH sub-transmission lines	45.0
UG sub-transmission cables	50.0
OH distribution lines	45.0
UG distribution cables	50.0
Distribution equipment	45.0
Substation bays	40.0
Substation establishment	40.0
Distribution substation switchgear	40.0
Zone transformers	40.0
Distribution transformers	45.0
Low voltage services	40.0
Load control & network metering devices	25.0
Communications - pilot wires	10.0
Streetlighting (residual rate 2 assets)	n/a
Systems buildings	40.0
Systems easements	n/a

⁵⁰ ATO, *Taxation Ruling TR2022/1 – Income tax: effective life of depreciating assets*, June 2022, Appendix Explanation, cl. 47–50, p. 9; ITAA, section 40.105.

⁵¹ NER, cl. 6.5.3.

Asset class	Standard tax asset life
System land	n/a
Control centre - SCADA	10.0
IT systems	3.8
Office equipment & furniture	13.1
Motor vehicles	12.9
Plant & equipment	5.2
Buildings	40.0
Land	n/a
Legacy ICT	n/a
Initial leases (10yr life)	10.0
Lease extensions (5yr life)	5.0
Buildings - capital works ^a	40.0
In-house software ^a	5.0
Equity raising costs ^a	5.0 ^b

Source: AER analysis.

n/a not applicable. We have not assigned a standard tax asset life to 'System easements', 'System land' and 'Land' asset classes because the capex allocated to them are not subject to depreciation. We also have not assigned a standard tax asset life to the 'Streetlighting (residual rate 2 assets)' and 'Legacy ICT' asset classes as there is no forecast capex allocated to these asset classes.

- (a) These are the only asset classes used for the straight-line method of tax depreciation for new capex. All new capex for other asset classes used the diminishing value method of tax depreciation.
- (b) For this draft decision, the forecast capex determined for Energex does not meet a level to trigger any benchmark equity raising costs.

Shortened forms

Term	Definition
AER	Australian Energy Regulator
ATO	Australian Taxation Office
capex	capital expenditure
gamma	value of imputation credits
ITAA	<i>Income Tax Assessment Act 1997</i>
NER	National Electricity Rules
opex	operating expenditure
PTRM	post-tax revenue model
RAB	regulatory asset base
RFM	roll forward model
RIN	regulatory information notice
TAB	tax asset base
WARL	weighted average remaining life